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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

190252-1850

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Application Number

10/098,698

Filed

March 15, 2002

First Named Inventor

Jordan

Art Unit

2617

Examiner

Daniel Jr., Willie

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. Registration number 58,169

☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

/BAB/

Signature

Benjamin A. Balser

Typed or printed name

(770) 933-9500

Telephone number

June 1, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Jordan

Serial No.: 10/098,698

Filed: March 1, 2002

Confirmation No.: 5128

Group Art Unit: 2617

Examiner: Daniel Jr., Willie

Docket No.: 190252-1850

For: **Local Point of Presence**

REMARKS IN SUPPORT OF
PRE-APPEAL BRIEF CONFERENCE

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants submit the following remarks in support of a Request for a Pre-Appeal

Brief Conference.

REMARKS

Applicant submits that the following clear legal deficiency exists in the rejection. Namely, the previous Office Action equates "cellular base station" with "a transceiver," such as a Bluetooth module, which are two functions that are known to be technically very different from each other. The instant claims recite, among other elements, "providing by a cellular base station a local point of presence." Even if the cited reference, *Hein-Magnussen*, discloses providing communication through a transceiver, as pointed out on page 2 of the Final Office Action mailed February 2, 2007, *Hein-Magnussen* fails to disclose that a point of presence is provided through a cellular base station.

I. Status

Claims 1-3 and 7-18 and 20-23 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Hein-Magnussen, et al.* (U.S. Publication No. 2004/0132407). Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Hein-Magnussen, et al.* (U.S. Publication No. 2004/0132407) in view of *Chen, et al.* (U.S. Publication No. 2003/0054810). Claims 5 and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over *Hein-Magnussen, et al.* (U.S. Publication No. 2004/0132407) in view of *Chen, et al.* (U.S. Publication No. 2003/0054810) in further view of *Mousseau, et al.* (U.S. Patent No. 5,559,800).

II. Examiner Interview

Applicant first wishes to express sincere appreciation for the time that Examiner Daniel spent with Applicant's representative Benjie Balser during an April 30, 2007 telephone discussion regarding the above-identified Office Action. During the interview, various features described in the patent application and recited in the independent claims, including providing a local exchange point of presence by a cellular base station, and *Hein-Magnussen* were discussed, and that the outcome of this discussion is addressed herein.

III. Rejections of Independent Claims 1 and 20-22 Under 35 U.S.C. §102(e)

Independent claims 1 and 20-22 are rejected under 35 U.S.C. 102(e) as allegedly being anticipated by *Hein-Magnussen, et al.* (U.S. Publication No. 2004/0132407).

Independent claim 1, as amended, recites:

1. A communication method, comprising:
receiving a request for a telecommunications service from a wireless client;
providing by a cellular base station a local exchange point of presence to the wireless client in response to the request, the local exchange point of presence selected based on the geographic location of the wireless client; and
providing the telecommunications service to the wireless client with a local telephone number through the local exchange point of presence.

(Emphasis added).

Applicant respectfully submits that claim 1 patently defines over the cited art for at least the reason that the cited art does not disclose the features emphasized above. For a

proper rejection of a claim under 35 U.S.C. §102, the cited reference must disclose, teach, or suggest all elements/features of the claim at issue. *See, e.g., E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 U.S.P.Q.2d 1129 (Fed. Cir. 1988).

Applicant respectfully submits that independent claim 1 is allowable for at least the reason that *Hein-Magnussen* does not disclose, teach, or suggest at least **providing by a cellular base station a local exchange point of presence to the wireless client in response to the request**. Even if, assuming for the sake of argument, a local unique address is provided in *Hein-Magnussen*, the local unique address is a temporary IP address provided by a local terminal such as a personal computer. *Hein-Magnussen* fails to teach providing a local exchange point of presence by a cellular base station as claimed. The Office Action alleges that transceiver 203 of the *Hein-Magnussen* reference discloses the cellular base station as claimed. *See Office Action*, page 4. However, transceiver 203 of the *Hein-Magnussen* reference is described as a Bluetooth module or the like, so that a wireless communication link is established between a given connecting unit (202; 202') and a given terminal (200; 200')." *See Hein-Magnussen*, para. [0132].

It is clear from the disclosure and figures of the *Hein-Magnussen* reference, that transceiver 203 does not cover anything that is even close to being as complex as a cellular base station. To convert the system of *Hein-Magnussen* to a system as claimed would require an inordinate amount of knowledge and resources and would clearly not be obvious to one of ordinary skill in the art. Therefore, *Hein-Magnussen* does not anticipate independent claim 1, and the rejection should be withdrawn for at least that

reason. Independent claims 20-22 include similar recitations as independent claim 1 and are also allowable over *Hein-Magnussen* for at least the reasons given above.

CONCLUSION

For at least the reasons set forth above, favorable reconsideration and allowance, or the re-opening of prosecution on the merits of the present application and all pending claims are hereby courteously requested.

Respectfully submitted,

**THOMAS, KAYDEN, HORSTEMEYER
& RISLEY, L.L.P.**

/BAB/

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